Case 1:21-cv-13631-RMB-AMD Document 1 Filed 07/13/21 Page 1 of 18 PageID: 1

Certified Mail # 7019 0700 0001 0864 0801 Returned Receipt # 9590 9402 5955 0062 2565/91/07132021

County of CAMDEN)

State of NEW JERSEY)

AFFIDAVIT OF MAILING

I am over 18 years of age and not a party to the within the action; my business address is:

2815 Arthur Ave, Camden N J

Notary Address

Notary Name

On the 13 day of JULY 2021 I mailed one copy of the following:

- 1. Notice of Intent / One (1) page
- 2. Complaint for constructive Trust/Twelve (12) pages
- 3. Original Copies of Evidence of fraudulent Signatures/ Two (2) pages
- 4. Original Copies of UCC Financial Statement Two (2) pages

A total of Seventeen (17) pages mailed herewith including all attachment, but (not including this affidavit of mailing) by the United States Post Office certified and Register mail, article No. 3800 & 380 forms Certified Mail # 7019 0700 0001 0864 0801 with Restricted Delivery, Returned Receipt No. 9590 9402 5955 0062 7265 91 and Requested and Return Receipt, in a sealed envelope with a One Dollar Postage and Properly address to THE DISTRIC COURT OF THE DISTRIC OF NEW JERSEY as Follows:

THE UNITED STATES DISTRIC COURT

FOR DISTRIC OF THE STATE OF NEW JERSEY 401 MARKET ST, CAMDEN NJ 88101

I, declare under the penalty of Perjury under the law of <u>NEW JERSEY</u> that the above is true and correct and complete and that this affidavit of service was executed on <u>12</u> of

2021 at **713** Chelton ave, camden new Jersey

Notary Public Signature

Notary Public of Notes Paper 2344437 1912

MARIA ELENA MERCADO 713 CHELTON AVENUE CAMDEN NEW JERSEY 08104-2289

Contact: (609) 233-3657 Email: mmercado891@gmail.com July 13, 2021

THE UNITED STATES DISTRICT COURTFOR THE DISTRICT OF NEW JERSEY

PLAINTIFF Grantor, Settlor, Trustor, Maria Elena Mercado) CASE NO:)
v. DEFENDANTS TOYOTA FINANCIAL SERVICES INC. And TOYOTA MOTOR CORP.)) COMPLAINT) FOR) CONSTRUCTIVE) TRUST)

Plaintiff complains and for causes of action alleges as follows:

VENUE

Jurisdiction Diversity of citizenship under 28 U.S.C. § 1331, Defendants
TOYOTA FINANCIAL SERVICES INC. and at all times herein mentioned, was

a Corporation organized and existing under the laws of the State of Texas with principal offices located at 6565 Headquarters Drive W2-5D, in the City of PLANO, County of PLANO TEXAS 75024 and TOYOTA MOTOR CORP. is and at all times herein mentioned, was a Corporation organized and existing under the laws of the State of ILLINOIS with principal officers located at P.O. Box 5855 CAROL STREAM ILLINOIS 60197-5855.

JURISDICTION STATEMENT

28 U.S.C. § 1332 Federal Question Jurisdiction involving Securities Fraud Defendant under 15 U.S.C § 78j (b); To use or employ, in connection with the purchase or sale of any security registered on a national securities exchange or any security not so registered, or any securities-based swap agreement [1] any manipulative or deceptive device or contrivance in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors.

TOYOTA FINANCIAL SERVICES INC. at all times herein mentioned was, a resident of the City of Plano, County of Plano, State of Texas and TOYOTA MOTOR CORP. is and at all times herein mentioned, was a Corporation organized and existing under the laws of the State of ILLINOIS with principal officers located at P.O. Box 5855 CAROL STREAM ILLINOIS 60197-5855.

FIRST CAUSE OF ACTION

The above-named defendants have committed the following acts by misleading, non-disclosure, omission, alteration and modification of the contract without authorization or subscribed to by the Plaintiff against

Toyota Financial Services Inc. and Toyota Motor Corp. TOYOTA FINANCIAL SERVICES INC and TOYOTA MOTOR CORP. defrauded Maria Elena Mercado and misappropriated Maria Elena Mercado's securities in the form of payment intangibles from her – they misappropriated funds from Maria Elena Mercado by disguising the security as a purchase agreement. Toyota misappropriated funds by wiring funds to investors and disseminated false and misleading securities offering documents and financial models to existing and prospective investors. This is evidenced by the fact that the contract/note wasn't signed by a notary (See EXHIBIT E: Page 30 of 46 under "Limited Power of Attorney".)

SECOND CAUSE OF ACTION

Plaintiff did not sign nor execute an electronic contract with TOYOTA FINANCIAL SERVICES INC. and TOYOTA MOTOR CORP., (See EXHIBIT C: Page 19 of 46).

12A:3-308 Proof of signatures and status as holder in due course.

12A:3-308. a. In an action with respect to an instrument, the authenticity of, and authority to make, each signature on the instrument is admitted, unless specifically denied in the pleadings. If the validity of a signature is denied, in the pleadings, the burden of establishing validity is on the person claiming validity, but the signature is presumed, to be authentic and

authorized unless the action is to enforce the liability of the purported signer, and the signer is deceased or incapacitated at the time of trial of the issue of validity of the signature. If an action to enforce the instrument is brought, against a person as the undisclosed principal of a person who signed the instrument as a party to the instrument, the plaintiff has the burden of establishing that the defendant is liable on the instrument as a represented person under subsection a. of N.J.S.12A:3-402.

b. If the validity of signatures is admitted or proved and there is compliance with subsection a. of this section, a plaintiff producing the instrument is entitled to payment if the plaintiff proves entitlement to enforce the instrument under N.J.S.12A:3-301, unless the defendant proves a defense or claim in recoupment. If a defense or claim in recoupment is proved the right to payment of the plaintiff is subject to the defense or claim, except to the extent the plaintiff proves that the plaintiff has rights of a holder in due course, which are not subject to the defense or claim.

amended 2013, c.103, s.58.

THIRD CAUSE OF ACTION

The purchase agreement does not have any warranty., (See EXHIBIT D: Page 24 of 46.

FOURTH CAUSE OF ACTION

That Reynolds and Reynolds is the Real Party of Interest due to the fact that the purchase agreement has their Trademark on the retail installment contract (See EXHIBIT A: Page 1 of 46.)

FIFTH CAUSE OF ACTION

The security was transferred, from SLOAN TOYOTA to TOYOTA
FINANCIAL SERVICES without the consent of the plaintiff as the issuer
(See EXHIBIT B: Page 10 of 17).

U.C.C § 12A: 8-106(g);

(g) An <u>issuer</u> or a <u>securities intermediary</u> may not enter into an agreement of the kind described in subsection (c)(2) or (d)(2) without the consent of the <u>registered owner</u> or <u>entitlement holder</u>, but an issuer or a securities intermediary is not required to enter into such an agreement even though the registered owner or entitlement holder so directs. An issuer or securities intermediary that has entered into such an agreement is not required, to confirm the existence of the agreement to another party unless requested to do so by the registered owner or entitlement holder.

SIXTH CAUSE OF ACTION

Defendant TOYOTA FINANCIAL SERVICES INC and TOYOTA

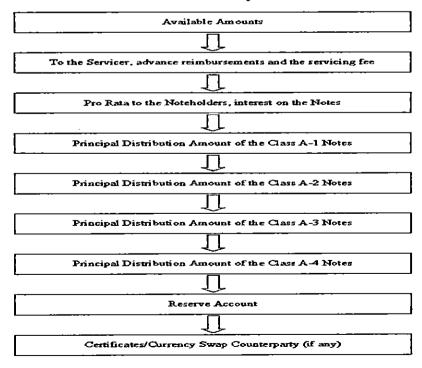
MOTOR CORP. are therefore in breach of contract committed on June 12,
2020., A constructive trust has been formed, by the above-mentioned acts
of the defendant merging legal and equitable title and giving plaintiff Maria
Elena Mercado an equitable lien for enforceability., Plaintiff alleges the
contract and agreement are a forgery and counterfeit.

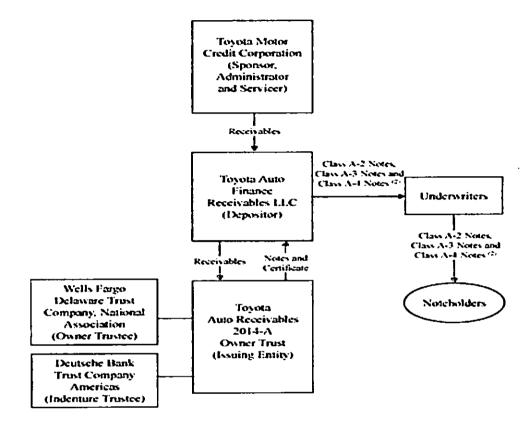
The flowcharts listed [below] are taken from the 424b5 Toyota prospectus display's, the unlawful conversion of Maria Elena Mercado's financial asset who is the drawer, maker, and issuer of the security under

New Jersey Uniform Commercial Code §§ 12A:8-201 and 12A:8-202, 12A3-105, and 12A:3-402.,

(b) If the validity of signatures is admitted or proved and there is compliance with subdivision (a), a plaintiff producing the instrument is entitled to payment if the plaintiff proves entitlement to enforce the instrument under Section 12A:-3-301, unless the defendant proves a defense or claim in recoupment. If a defense or claim in recoupment is proved, the right to payment of the plaintiff is subject to the defense or claim, except to the extent the plaintiff proves that the plaintiff has rights of a holder in due course, which are not subject to the defense or claim.

The TRANSFER AND SERVICING AGREEMENT endorsed "without recourse" waives all rights to payment and enforceability by TOYOTA FINANCIAL SERVICES INC and TOYOTA MOTOR CORP. under 12A:3-414(e) and 12A:3-415(b) who is trying to enforce the following contract or agreement as explained in the Prospectus Supplement 424B5 - Purchase Agreement, Sale and Servicing Agreement, Trust and Indenture Agreements, which have not been memorialized or subscribed by Plaintiff under § 12A:2-309 (3) of the New Jersey Civil Code and the Statute of Frauds and which are unenforceable do apply Plaintiff. as they not to





Plaintiff Maria Elena Mercado is unaware of the true names and capacities of defendants sued herein as DOE'S I through X, inclusive, and therefore sues TOYOTA FINANCIAL SERVICES INC and TOYOTA MOTOR CORP. by these fictitious names., Plaintiff Maria Elena Mercado will amend this complaint to allege their true names and capacities when ascertained.

Plaintiff Maria Elena Mercado is informed, and believes and thereon alleges TOYOTA FINANCIAL SERVICES INC. and TOYOTA MOTOR CORP.,

at all times herein mentioned, each of the defendants sued herein was the agent and employee of each of the remaining defendants and was at all times acting within the purpose and scope of such agency and employment.

As a proximate result of the defendants TOYOTA FINANCIAL SERVICES INC. and TOYOTA MOTOR CORP. fraudulent misrepresentations and otherwise wrongful conduct as alleged herein, Plaintiff Maria Elena Mercado cause of action has been to take action against TOYOTA FINANCIAL SERVICES INC. and TOYOTA MOTOR CORP. which has repossessed the Plaintiff Maria Elena Mercado's property and stolen her Property for Alleged non-payment.

By reason of the fraudulent and otherwise wrongful manner in which the defendants TOYOTA FINANCIAL SERVICES INC. and TOYOTA MOTOR CORP. or any other defendant obtained their alleged right, claim or interest in and to the property, defendants TOYOTA FINANCIAL SERVICES INC., and TOYOTA MOTOR CORP. and/or other defendants, and each of them, have no legal or equitable right, claim or interest therein, but instead, TOYOTA FINANCIAL SERVICES INC. and TOYOTA MOTOR CORP. each of them are involuntary trustees holding said property and profits therefrom in constructive trust for Plaintiff Maria Elena Mercado with the duty to convey the same to Plaintiff Maria Elena Mercado forthwith.

Maria Elena Mercado has filed a UCC-1 (See EXHIBIT F) with the Secretary of the State of New Jersey perfecting a security interest in the vehicle, a one

2020 Toyota Camry 4DR SEDAN SXE AT 4T1A61AK3LU354553 under article 12A:9-301., The service agreement is classified, as a payment intangible under 12A:9-102(42);

(42) "General intangible" means any personal property, including things in action, other than accounts, chattel paper, commercial tort claims, deposit accounts, documents, goods, instruments, investment property, letter-of-credit rights, letters of credit, money, and oil, gas, or other minerals before extraction. The term includes payment intangibles and software.

Maria Elena Mercado is the Grantor, Settlor, Owner and Non-Adverse Party under Title 26 § 674.,

12A:9-503 (A)(ii) and (B)(ii);

A (ii)if the organic record of the trust does not specify a name for the trust, the name of the settlor or testator; and

B (ii) if the name is provided, in accordance with subparagraph (A) (ii), provides additional information sufficient to distinguish the trust from other trusts having one or more of the same settlors or the same testator and indicates that the collateral is held, in a trust, unless the additional information so indicates.

Title 26 U.S.C. § 674 (a) GENERAL RULE

The grantor shall be treated as the owner of any portion of a trust in respect of which the beneficial enjoyment of the corpus or the income therefrom is subject to a power of disposition, exercisable by the grantor or a non-adverse party, or both, <u>without</u> the approval or consent of any adverse party.

Acknowledgement, Acceptance and Deed of Reconveyance

I, the living man, (woman) Maria Elena Mercado, being of the age of majority, of sound mind and in good health, free of all duress or improper consideration hereby acknowledge, accept and re-convey my given lawful Trade Name, Maria Elena Mercado to the land and soil of New Jersey, my native state, together with all derivative names, including Maria Elena

Mercado, Elena M. Mercado, Elena Mercado, also possibly referenced in your records as ELENA MERCADO (Ward of State), MARIA ELENA MERCADO (Cestui Que Vie Trust), MARIA E MERCADO (Public Transmitting Utility), ELM© and MARIA ELENA DIAZ, MARIA E DIAZ, MARIA DIAZ, ALMY, MARIA ELENA and / or DIAZ, ELENA, MARIA and MED© or any deviations of, and all other variations however styled, punctuated, spelled, ordered or otherwise represented as pertaining to me and my estate, and hereby declare their permanent domicile on the land and soil of New JERSEY.

All prior Powers of Attorney, all other prior presumed or granted Executorships, Guardianships, and Agency relationships are terminated, and revoked effective with my natural birthday May 18th, 1966, as I elect to be recognized, as the sole living owner, executor, beneficiary and agent of my name and estate since my 21st birthday on May 18th,1987.

So said, so signed and so sealed by my living hand this 9th day of July 2021.

by: Maria Clena Mercado
Donor, Grantor, Settlor

WHEREFORE, plaintiff Maria Elena Mercado demands to be treated as the beneficial owner and non-adverse party with a full reconveyance and release of lien pray's, for a full judgment against defendant TOYOTA FINANCIAL SERVICES INC. and TOYOTA MOTOR CORP., each of them, as follows:

*For a declaratory judgement that Defendant TOYOTA FINANCIAL SERVICES INC., and TOYOTA MOTOR CORP. hold the duty as constructive trustees for the benefit of the Plaintiff Maria Elena Mercado; Mandatory counter claim under 12A:3-305 mandatory counterclaim for the amount of \$10,000,000.00.

^{*}For costs of suit incurred herein;

^{*}For such other and further relief as the court may deem proper.

DATED: July 13, 2021

Maria Clena Mercado
SIGNATURE AUTHORIZED REPRESENTATIVE

VERIFICATION

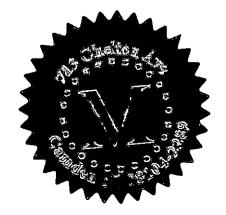
I, Maria Elena Mercado, am a Plaintiff in the above-entitled action. I have read, the foregoing *herein* and know the contents thereof. The same is true of my own knowledge, except as to those matters which are therein alleged on information and belief, and as to those matters, I believe it to be true.

I declare, under penalty of perjury, that the foregoing is true and correct, and that this declaration was executed, at CAMDEN COUNTY OF THE STATE OF NEW JERSEY.

DATED: July 13, 2021



CERTIFICATE OF ACKNOWLEDGEMENT
STATE OF NEW JERSEY)
)
)
COUNTY OF CAMDEN)
On <u>July 13,</u> 2021, before <u>Mary I. Cortes,</u> Notary Public in and for me, {Name of Notary}
Said County, Personally appeared <u>Martin Diaz</u> and {Witness 1}
<u>Gochabel Marie Diaz</u> {Witness 2}
Who has or have Satisfactorily Identified Him /Her/ Themselves as a Signer(s) or
Witness{es} to the Above-Referenced Documents?
{affix Notary Stamp here}: Many O. Cortes
My commission Expires on Notary Public of New Jersey Expires of New Jersey Notary Public of New Jers



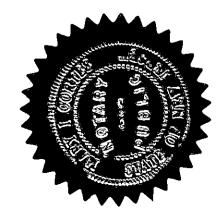


EXHIBIT A: Page 1 of 46



FORM NO. SA-1506_6 (REV. 3/13) V2
© 2013 The Reynolds and Reynolds Company
THEPE ARE NO WARRANTIES, EXPRESS OR IMPLIED, AS TO CONTENT OR FITNESS
FOR PURPOSE OF THIS FORM, CONSIST YOUR CANNIEGAL COUPSEL

EXHIBIT B: Page 10 of 17

Toyota Friencial Services is a service mark of Toyota Meta Incurance Scrvices, Inc., 6565 Headquarters Drive, Piono, TX 75024, 600-228-6559 Program Admirstrator is Safe-Guard Products International LLC, 2 Concause Pathway, Suite StD, Afrana, GA, 30023, 655-979-0518 [key Replacement services provided by Safetide Motor Club, Inc., ("Motor Club") 13701 Michaely Road, Suite 102-029, Dolos, TX 75744-038 TRUCHAC (7/17)

Page 10 of 17

3985 (07/17)

EXHIBIT C: Page 19 of 46

SECANE TOYOTA
Acknowledgement of Document Receipt

Via USB Drive

With this letter we hereby acknowledge the receipt of vehicle deal documents by way of digital copy on a USB Drive, rather than a printed copy.

JU, 711_6 06/12/2020

Buyer's Signature Co-Buyer's Signature Date

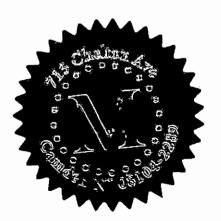


EXHIBIT D: Page 24 of 46

If FACTORY WARRANTY - The manufacturer's warranty constitutes all of the warranties with respect to the sale of this itemfitants. The selfer hereby expressly districts all warranties, either expressed or implied including any implied warrantly of merchantability or filmess for a perficular purpose, and the sales neither assumes nor authorizes any other person to assume for it any liability in connection with the sale of this temfitants.
USED CAR WARRANTY - Used car is covered by a limited warranty detailed in a separate document. You may obtain a full copy of any applicable warranty
from us.
AS IS -THIS MOTOR VEHICLE IS SOLD "AS IS" WITHOUT ANY WARRANTY EITHER EXPRESSED OR IMPLIED. THE BUYER WILL BEAR THE ENTIRE EXPENSE OF REPAIRING OR CORRECTING ANY DEFECT THAT PRESENTLY EXISTS OR THAT MAY OCCUR IN THE VEHICLE.
BUYER'S SIGNATURE X
Boyer agrees that this Agreement includes all of the terms and conditions on all manes of this horsement because the
EXHIBIT E: Page 30 of 46 under "Limited Power of Attorney".
One of the Other Designation to the Comment of the
Sworn to (or affirmed) and subscribed before me this day of
(SEAL)
,
(Signature of Notary)
(minute of stones))

THIS FORM IS INVALID WITHOUT NOTARIZATION

LPOA (Rev. 10/04/2013)



Case 1:21-cv-13631-RMB-AMD Docu	ment 1	Filed 07/13/21 P	age 1	.6 of 18 PageID	: 16
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UCC FINANCING STATEMENT FOLLOWINSTRUCTIONS		Section 3			
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Maria Elena Mercado 609 B. E-MAIL CONTACT AT FILER (optional)	7363343	Depart	ment o	f the Treasury	
mmercado891@gmail.com		Division of Re		& Enterprise Ser Section	vices
C. SEND ACKNOWLEDGMENT TO: (Name and Address)		-	Fi	.led	
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713 Chelton ave	1	1	7/12/21 12:02:47		
Camden, NJ 08104		ľ	,, 12,23		
us	1				
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name will not fit in line 1b, leave all of item 1 blank, check here and provide	the Individual Del	btor information in item 10 of the Fi	nancing St	atement Addendum (Form UC	C1Ad)
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OR TOYOTA MOTOR CORP 16. INDIVIDUAL'S SURNAME	FIRST PERSO	NAL MARKE	ΙΑυπιπο	NAL NAME(S)/INITIAL(S)	SUFFIX
10. INDIVIDUAL'S SURNAME	FINGI PENGGI	VAL HANGE	7.00.110	in a real control ato	Gerra
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2a. ORGANIZATION'S NAME					
TOYOTA FINANCIAL SERVICES OR 25. INDIVIDUAL'S SURNAME	FIRST PERSO	NAL NAME	TADDITIO	NAL NAME(S)/INITIAL(S)	SUFFIX
ZD. INDIVIDUAL S SURRAINE	THOI PERSONALIONAL		ADDITION LIVERING (S)		
2c. MAILING ADDRESS	CITY		STATE	POSTAL CODE	COUNTRY
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3. SECURED PARTY'S NAME (or NAME of ASSIGNEE of ASSIGNOR SEC	URED PARTY): F	Provide only one Secured Party nan	ne (3a or 31	p)	
3a. ORGANIZATION'S NAME					
OR 3b. INDIVIDUAL'S SURNAME	FIRST PERSO	NAL NAME	ADDITIO	NAL NAME(S)/INITIAL(S)	SUFFIX
Mercado	Maria	Elena	1		
3c. MAILING ADDRESS	CITY			POSTAL CODE	COUNTRY
713 Chelton ave	Camde	<u> </u>	ŊĴ	08104-9998	US
4. COLLATERAL: This financing statement covers the following collateral: 2020 Toyota Camry 4DR SEDAN SXE AT 4T1A61AK3LU35	4553 under	article 12A·9-301	The se	ervice agreement i	.Б
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organic record of the trust does not specify a r	name for th	e trust, the name of	the se	ettlor or testator	and B
(ii) if the name is provided in accordance with s to distinguish the trust from other trusts having	a one or m	ore of the same sett	lors of	r the same testato	sufficient or and
indicates that the collateral is held in a trust	, unless t	he additional inform	ation a	so indicates.	
5. Check only if applicable and check only one box: Collateral is held in a Trus	t (see UCC1Ad, it			ered by a Decedent's Persona	
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7. ALTERNATIVE DESIGNATION (if applicable): Lessee/Lessor 8. OPTIONAL FILER REFERENCE DATA:	Consignee/Cons	ignor Seller/Buyer		ailee/Bailor Licen:	see/Licensor
O, OF HOMAL FILLER REFERENCE DATA.					

UCC FINANCING STATEMENT ADDENDUM

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